

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

NATALIE ANDERSON and ANDRE BISASOR, Plaintiffs,

v.

TODISCO SERVICES, INC., PASQUALE TODISCO, III, MATTHEW MAZZARELLA, DON "DOE,"
BILLY "DOE," MAPFRE INSURANCE CO., STEPHANIE WOJDAG, DANIEL OLOHAN, ACADIA
INSURANCE GROUP, BENNETT & BELFORT, and JITEN MANAGEMENT, Defendants.

C. A. No. 1:23-cv-11567

**MOTION & AFFIDAVIT TO ENTER DEFAULT AGAINST DEFENDANT
TODISCO SERVICES INC., MATTHEW MAZZARELLA, DON "DOE", BILLY "DOE"**

1. The plaintiff Andre Bisasor (plaintiff bisasor) hereby moves the clerk of this court, pursuant to Rule 55(a) to enter default against Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe", in this case for failure to file an answer or to respond to the summons and complaint.
2. In furtherance of this, plaintiff Bisasor hereby depose and saith under oath, under the pains and penalties of perjury, and provide the below affidavit as part of this motion, as follows:
3. On June 27, 2023, the plaintiffs in this case attempted to serve process by Sheriff on Defendants Todisco Services Inc, Pasquale Todisco, Matthew Mazzarella, Don "Doe", Billy "Doe" at their primary place of business at 171 Boston St, Salem MA, which is also the address of the registered agent Pasquale Todisco. Service by the sheriff was refused by Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" as well as by defendant Pasquale Todisco as the owner/principal of the business and as the registered agent.
4. However, the next day, after incurring additional costs, the Sheriff served Pasquale Todisco at his home on June 28, 2023.
5. After updating the state court about the avoidance of service by the defendants and after the state court authorized another attempt to serve process by sheriff, then on July 13, 2023, the plaintiffs again attempted to serve process by Sheriff on Defendant Todisco Services Inc, Pasquale Todisco, Matthew Mazzarella, Don "Doe", Billy "Doe". Service by sheriff was successfully completed at that time on all defendants.
6. Mass.R.Civ.P. 12(a)(1) states:

When Presented. (1) After service upon him of any pleading requiring a responsive pleading, a party shall serve such responsive pleading within 20 days unless otherwise directed by order of the court.

7. The Defendants had until July 19, 2023 to provide an answer in Attleboro District Court. They failed to do so.
8. The defendant Pasquale Todisco subsequently removed the case to Federal district court on July 12, 2023.
9. According to the rules of federal court, the defendants have 7 days from date of removal to provide an answer or response. See FEDERAL RULES which states: "that upon removal to federal court, the defendant party has 7 days to provide file a responsive pleading".
10. This case was removed on July 12, 2023. The answer or response was due 7 days later on July 19, 2023.
11. Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" did not file an answer or responsive pleading with this federal court by the due date of July 19, 2023; and no answer or responsive pleading mailed/served to the plaintiff by Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" by July 19, 2023. Similarly, no motion to dismiss has been mailed/served to the plaintiff by Defendant Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" by July 19, 2023.
12. Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" did not file an answer or responsive pleading with the state court by July 19, 2023.

13. It has been 9 days now beyond the due date of July 19, 2023, and there still has been no answer or responsive pleading filed with this federal court (or any court) by Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" as of today's date; and still no answer or responsive pleading mailed/served to the plaintiff by Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe". Similarly, no motion to dismiss has been mailed/served to the plaintiff by Defendant Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" as of today's date.
14. By any definition, Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" are in default and have been in default.
15. Massachusetts courts have consistently ruled that "A party may not flout the twenty-day filing deadline of Mass.R.Civ.P. 12(a)(1)." See Cicchese v. Tape Time Corp., 28 Mass. App. Ct. 72, 75 (1989). See also Kenney v. Rust, 17 Mass. App. Ct. 699, 703 (1984).
16. Therefore, the Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" are in default, and thus default must enter against the Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" pursuant to rule.
17. This is particularly egregious because the defendants have known of this case being filed for more than a year now. They had time to prepare their response but failed to do. They attempted to skirt service of process in state court. They blindsided the plaintiffs with sudden removal to federal court without any advance notice, several days before they were even required to do so.
18. Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" have not filed any motion for extension of time to file an answer or responsive pleading in this court (nor in state court).
19. Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" have all just blatantly and flagrantly flouted the deadline to respond. They have not defended this case at all in this court nor in state court. What they did was refused service and tried to evade service by sheriff on 6/27/23 but they were eventually served on 7/13/23 by sheriff. See state court docket.
20. When the case was removed, Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" were required to consent to removal. Thus, Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" knew that this case was removed. This further proven by the fact that the same counsel representing Pasquale Todisco, who removed the case to federal court, also represents Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe".
21. No matter which way you cut it, there is simply no excuse for missing the deadline to file responsive pleading or answer.
22. Entry of Default against Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" is therefore proper.
23. The Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" have no excuse for not meeting the deadline to answer or respond in federal court. They consented to removal of the case to federal court knowing that there are strict deadlines to meet the deadline upon doing so, within 7 days. The Defendants Todisco Services Inc, Matthew Mazzarella, Don "Doe", Billy "Doe" should have known to file their response by July 19, 2023. But they failed to do so.
24. Please grant the relief requested herein.

Signed under the pains and penalties of perjury.

Respectfully submitted,

/s/ Andre Bisasor

Andre Bisasor

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Attleboro, MA 02703

T: 781-492-5675

July 28, 2023

CERTIFICATE OF SERVICE

I certify that this document was/will also be served on the Defendants.

/s/ Andre Bisasor

Andre Bisasor

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